IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 4940 of 2006(K)

PETITIONER:

A.V.SANKARAN NAMBOODIRI,
S/O.VISHNU NAMBOODIRI, AATTUPURATHU ILLOM,
PRIYAR, OCHIRA, NOW SANTHI AT VARAVILA TEMPLE.

BY ADV. SRI.N.ANILKUMAR

RESPONDENTS:

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1. TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY SECRETARY, DEVASWOM BUILDINGS,
NANTHANCODE, TRIVANDRUM.

2. THE COMMISSIONER, TRAVANCORE DEVASWAM BOARD,
DEVASWAM BUILDING, NANTHANCODE,
THIRUVANANTHAPURAM.

3. DEPUTY DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, DEVASWOM BUILDINGS,
NANTHANCODE, TRIVANDRUM.

4. ASSISTANT DEVASWOM, COMMISSIONER,
KARUNAGAPPALLY.

5. ASHOKAN, SANTHI, PUTHIYIDOM DEVASWOM,
KAYAMKULAM.

BY ADV. SRI.D.SOMASUNDARAM
SRI.C.VIJAYAN, SC, TDB FOR R1 TO R4.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER OF ASSISTANT DEVASWAM COMMISSIONER, KARUNAGAPPALLY DATED 25.2.2005.

EXT.P2: COPY OF THE ORDER DATED 10.3.2005 PASSED BY DEPUTY COMMISSIONER.

EXT.P3: COPY OF THE JUDGMENT IN W.P.(C).NO.10857/05 DATED 1.6.2005.

EXT.P4: COPY OF THE PETITIONER DATED 8.8.2005 BEFORE THE DEVASWAM COMMISSIONER.

EXT.P5: COPY OF THE REPRESENTATION DATED 10.8.2005 BEFORE DEVASWAM COMMISSIONER.

EXT.P6: COPY OF THE ORDER DATED 28.9.2005 PASSED BY DEVASWAM COMMISSIONER.

EXT.P7: COPY OF THE JUDGMENT IN W.P.(C).NO.29230/2005 DATED 18.102005.

EXT.P8: COPY OF THE NOTICE DATED 21.11.2005.

EXT.P9: COPY OF THE ORDER DATED 6.12.2005 NO.ROC 9790/05/MOI PASSED BY SECRETARY TRAVANCORE DEVASWAM BOARD.

RESPONDENT'S EXHIBIT:

EXT.R5(a): COPY OF THE ORDER DATED 6.8.2005 OF THE 4TH RESPONDENT.

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BKN // TRUE COPY//

P.A.TO JUDGE

T.R.RAMACHANDRAN NAIR, J.

W.P.(C).NO.4940 OF 2006

Dated this the 14th day of March, 2007.

JUDGMENT

Petitioner is seeking to quash Ext.P9 order passed by the first respondent, Travancore Devaswom Board in an appeal filed by the 5th respondent challenging the order passed by the Devaswom Commissioner as evidenced by Ext.P6. The short facts necessary for the disposal of the case are the following:- The petitioner is working as a Santhi at Varavila Bharanikkavu Temple from 30.4.2004. He obtained the said posting during the general transfer for the year 2004-2005. According to the petitioner at the time of general transfer he had made a request for granting him a transfer to Puthiyidom Devaswom, Kayamkulam under Karunagappally group.

2. Ext.P1 is the order passed by the Assistant Devaswom Commissioner whereby the petitioner was transferred to Puthiyidom Devaswom consequent on the transfer of the then incumbent from Puthiyidom Devaswom. Even though the said order was implemented, later by Ext.P2, the same was cancelled. There after the petitioner approached this court by filing W.P.(C).No.10857/05. By Ext.P3, the said Writ Petition was disposed of. The learned Single Judge did not interfere with Ext.P2 order. The remedy of the petitioner is to submit

a request at the time of general transfer alone was left open. The petitioner is now aggrieved by the subsequent developments after the above judgment. According to the petitioner, varying from the contents of the statement filed by the Board in W.P.(C).No.10857/05, they considered another person namely 5th respondent for a posting in Puthiyidom Devaswom in the place of the petitioner. Thereafter the Commissioner of Travancore Devaswom, by Ext.P6 proceedings favoured the petitioner by cancelling the said order and posting the petitioner to Puthiyidom Devaswom. This was challenged by 5th respondent in W.P.(C).No.29230/05. This court by Ext.P7 judgment, directed the first respondent to take a decision on the appeal filed by 5th respondent against Ext.P6 after affording an opportunity of being heard to the petitioner and the 5th respondent herein. Thereafter the Board passed Ext.P9 order by which the petitioner was directed to continue in Varavila Devaswom and 5th respondent was allowed to continue in the Puthiyidom Devaswom.

3. According to the petitioner while passing Ext.P9, the Board did not consider the relevant aspects. The counsel for the petitioner strongly contended that in the light of the statement filed by the respondents 1 and 2 in W.P.(C).No.10857/05, the 5th respondent had no claim for a posting in Puthiyidom Devaswom and great injustice has been done to the petitioner.

4. The 5th respondent has filed a counter affidavit explaining the circumstances leading to the posting given to him and also justifying Ext.P9, proceedings of Travancore Devaswom Board. The Board also has filed a counter affidavit reiterating their stand that entire aspects have been considered while passing Ext.P9 and that there is no illegality or irregularity in the orders passed.

5. The issue in question is regarding the entitlement for transfer to a particular Devaswom, claimed by the petitioner. Going by the facts emanating from the proceedings, the petitioner started his tenure in Varavila Devaswom from 30.04.2004. The petitioner even though contends for the position that the Board has not applied their mind while passing Ext.P9, I am afraid those contentions are not correct. The guidelines for transfer do not give an enforceable right for the employees, as held by the Hon'ble Supreme Court and this Court in various decisions (See *National Hydroelectric Power Corporation Ltd vs. Shri. Bhagwan and Shiv Prakash* reported in 2001 (8) SCC 574). Therefore, even though, Ext.P9 in terms does not literally give elaborate reasons in support of the decision, I find that there is no illegality or irregularity in passing Ext.P9. Now the petitioner is completing three years by 30th April, 2007 in Varavila Devaswom. In this Writ Petition no Interim Order was in force and the petitioner and the 5th respondent have been continuing in Varavila

Devaswom and Puthiyidom Devaswom respectively as directed in Ext.P7 judgment. Therefore, at this distance of time the status quo as was in force from the date of the Writ Petition No.29230/05, need not be disturbed.

6. Now it is evident that the next general transfer is due. Therefore, if the petitioner, who is completing three years by 30th of April, opts for a particular station, the respondents 1 and 2 will consider the same in accordance with the guidelines in force. The Writ Petition is disposed of accordingly. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

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